

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
Bid Protest

NAVIENT SOLUTIONS, LLC)
)
Plaintiff,)
)
v.) Consolidated Case No. 18-1679
) (Judge Wheeler)
THE UNITED STATES,)
)
Defendant.)

DEFENDANT'S MOTION TO STAY PENDING CORRECTIVE ACTION

During the December 4, 2018 hearing on these consolidated bid protests, the Department of Education (ED), pursuant to a request from the Court, agreed to consider corrective action to address the consolidated plaintiffs' claims.¹ ECF No. 46. ED has decided to take corrective action that will moot the consolidated plaintiffs' claims. Specifically, by no later than January 15, 2019, ED will cancel components C, D, E, and F of the NextGen procurement and issue a new solicitation(s) for the services sought in those components, using full and open competition procedures. The additional time, up to and including January 15, 2019, is necessary for ED to prepare the new solicitation(s). This corrective action will render the consolidated plaintiffs' claims moot because it provides the consolidated plaintiffs with the relief they seek: a fresh opportunity to participate in the solicitation for support across the student aid lifecycle covered by NextGen components C, D, E, and F. *See Chapman Law Firm Co. v. Greenleaf Constr. Co.*, 490 F.3d 934, 940 (Fed. Cir. 2007) ("When, during the course of litigation, it

¹ The consolidated plaintiffs are: Navient Solutions, LLC (18-1679C), Higher Education Loan Authority of the State of Missouri (18-1758C), FMS Investment Corp. (18-1786C), Continental Services Group, Inc. (18-1813C), Pennsylvania Higher Education Assistance Agency (18-1824C), GC Services, LP (18-1852C), and Account Control Technology, Inc. (18-1853C).

develops that the relief sought has been granted or that the questions originally in controversy between the parties are no longer at issue, the case should generally be dismissed.”). ED also will continue the stay of proposals for component D it agreed to at the December 4, 2018 hearing, until the cancellation of component D in connection with this corrective action.

Therefore, to preserve the resources of the Court and the parties, and because no party can demonstrate prejudice from a brief stay of proceedings pending the implementation of the corrective action announced here, we respectfully request a stay of all proceedings in these consolidated bid protests pending the implementation of the announced corrective action on or before January 15, 2019. *See Cherokee Nation of Oklahoma v. United States*, 124 F.3d 1413, 1416 (Fed. Cir. 1997) (“The power of a federal trial court to stay its proceedings . . . is beyond question. This power springs from the inherent authority of every court to control the disposition of its cases. When and how to stay proceedings is within the sound discretion of the trial court.”(internal citations omitted)). At that time, we will file motions to dismiss.

Respectfully submitted,

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